

STAFF SUMMARY FOR DETERMINATION OF NEED
BY THE PUBLIC HEALTH COUNCIL
October 13, 2010

APPLICANT: Steward Holy Family Hospital, Inc.

PROGRAM ANALYST: Jere Page

LOCATION: 70 East Street
Methuen, MA

REGION: HSA III

DATE OF APPLICATION: May 10, 2010

PROJECT NUMBER: 3-3B89

PROJECT DESCRIPTION: Transfer of ownership of Caritas Holy Family Hospital in Methuen, with satellite facilities in Andover, Lawrence, and Methuen. The Hospital and satellites will be acquired by Steward Holy Family Hospital, Inc., pursuant to the terms and conditions of the Asset Purchase Agreement between the Hospital's affiliate, Caritas Christi and the Applicant's affiliate, Steward Health Care System, LLC, an affiliate of Cerberus Capital Management, L.P.

ESTIMATED MAXIMUM CAPITAL EXPENDITURE: Not applicable

ESTIMATED FIRST YEAR INCREMENTAL OPERATING COSTS: Not applicable

LEGAL STATUS: A unique application for a Determination of Need filed pursuant to M.G.L. c.111, § 51 and the regulations adopted thereunder.

ENVIRONMENTAL STATUS: No environmental notification form or environmental impact report is required to be submitted for this project since it is exempt under 301 Code of Massachusetts Regulations 10.32 (3) promulgated by the Executive Office of Environmental Affairs pursuant to Massachusetts General Laws, Chapter 20, §§ 61-62H. As a result of this exemption, the project has, therefore, been determined to cause no significant damage to the environment.

OTHER PENDING APPLICATIONS: None

COMPARABLE APPLICANT(S): None

COMMENTS BY DIVISION OF HEALTH CARE FINANCE AND POLICY: None submitted

COMMENTS BY EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
(“EOHHS”):

Comments submitted indicate that EOHHS has determined that no access problems exist for Medicaid recipients in Caritas Holy Family Hospital's primary service area. EOHHS also anticipates that the Hospital will continue to make access to Medicaid providers and primary care for Medicaid patients a priority (Attachment 2).

COMMENTS BY OFFICE OF THE ATTORNEY GENERAL: The Office of the Attorney General reviewed the transaction and issued a separate report with conditions.

COMMENTS BY INTERESTED PARTIES: The Phillip Katz Interested Party submitted a request for a public hearing in connection with the sale of Holy Family Hospital to Cerberus. The hearing was held on June 29, 2010 in Methuen.

RECOMMENDATION: Approval with conditions

I. BACKGROUND AND PROJECT DESCRIPTION

Steward Holy Family Hospital, Inc. (“Applicant” or “Steward Holy Family ”), a Massachusetts non-profit corporation, is seeking transfer of ownership of Caritas Holy Family Hospital (“Holy Family ” or the “Hospital”) located at Methuen, MA, as well as three satellites operated by the Hospital, pursuant to the terms and conditions of an Asset Purchase Agreement dated March 19, 2010 between Caritas Christi Health Care and Steward Holy Family Hospital, Inc., a subsidiary of Steward Health Care System, LLC an affiliate of Cerberus Capital Management, L.P. The sole member of Steward Holy Family Hospital, Inc. is Steward Hospital Holdings LLC, a limited liability company managed by its sole member, Steward Health Care System LLC an affiliate of Cerberus Capital Management, L.P.

The three Holy Family satellites are located at 138 Haverhill Street, Methuen, 101 Amesbury Street, Lawrence, and 60 East Street, Methuen.

Caritas Holy Family is a 263-bed acute care hospital located in Methuen with a service area including Methuen, Lawrence, Andover, North Andover, and several cities and towns in southern New Hampshire. The Hospital’s licensed beds include 113 medical/surgical beds, 19 intensive care beds, 20 pediatric service beds, and 47 psychiatric beds.

Also included in the same transaction are the other five Caritas hospitals (Caritas Carney Hospital, Caritas Norwood Hospital, Caritas Good Samaritan Medical Center, Caritas St. Anne’s Hospital, and Caritas Saint Elizabeth’s Medical Center of Boston) which will be acquired by other Steward subsidiaries. The proposed transfer of the Hospitals is set forth in an Asset Purchase Agreement between the Hospital and Steward Health Care System, LLC. The Applicant has indicated that the transaction will provide resources necessary to assure that the Hospital and the health care system of which it is a part functions as a financially-sustainable, lower-cost, high-quality, community-based provider of hospital and other health services. The transaction as indicated by the applicant will bring approximately \$830 million in value to the health care system including \$400 million in capital projects and other expenditures to benefit the health care system including Saint Anne’s. The Catholic identity of the Caritas Christi system will be preserved through a Stewardship Agreement entered into between Steward and the Roman Catholic Archdiocese of Boston.

Holy Family Hospital, Inc. is the current licensee and, under the terms of the transfer of ownership agreement, the proposed licensee will be Steward Holy Family Hospital, Inc. for the Hospital and its satellites. The Applicant does not anticipate any immediate changes in services for at least three years and no capital expenditures are contemplated in association with this transfer.

II. STAFF ANALYSIS

Based upon a review of the application as submitted and clarification of issues by the Applicant, Staff finds that the application satisfies the requirements for the Alternate Process for Change of Ownership found in 105 CMR 100.600 et seq. Staff also finds that the Applicant satisfies the standards applied under 100.602 as follows:

A. Individuals residing in the hospital's primary service area or health systems area comprise a majority of the individuals responsible for the following decisions:

- (1) Approval of borrowings in excess of \$ 500,000;
- (2) Additions or conversions which constitute substantial changes in service;
- (3) Approval of capital and operating budgets; and
- (4) Approval of the filing of an application for determination of need

Based on information supplied by the applicant, 82% of the members of the local board reside in the service area of the hospital as seen in Attachment 1.

B. Evidence that consultation has taken place with the Division of Medical Assistance, prior to submission of the application, regarding access problems of Medicaid recipients to medical services in the facility's primary service area.

The Applicant has consulted with EOHHS concerning the access of medical services to Medicaid recipients at Caritas Holy Family Hospital. Comments submitted indicate that EOHHS has determined that no access problems exist for Medicaid recipients in Caritas Holy Family Hospital's primary service area, and that EOHHS anticipates that the Hospital will continue to make access to Medicaid providers and primary care for Medicaid patients a priority. (See Attachment 2).

C. Neither the applicant nor any health care facility affiliates of the applicant have been found to have engaged in a pattern or practice of violating the provisions of M.G.L. c. 111, § 51(D).

The Division of Health Care Quality has determined that the Applicant has not been found to have engaged in a pattern or practice in violation of the provisions of M.G.L. c.111, §51(D).

D. If the application is for a transfer of ownership of a hospital, then the applicant is a hospital licensed by the Department or is an affiliate of a hospital licensed by the Department.

The Applicant is an affiliate of a licensed hospital through a management Consulting Agreement by and between Caritas Holy Family Hospital Corporation and Steward Holy Family Hospital Corporation which is included as Attachment 3.

Evidence of Responsibility and Suitability

In addition to meeting the DoN standards indicated above, Staff notes that an applicant proposing to acquire an existing health facility must also be found to be responsible and suitable by the Suitability Review Program of the Division of Health Care Quality in order to be granted a hospital license. The Suitability Review Program found that Steward Holy Family Hospital, Inc. meets the requirements for suitability set forth in 105 CMR 130.104.

Caritas Community Benefits from Prior DoN Approvals

Staff notes that Cerberus, as a condition of approval, has agreed to continue funding community benefits that were approved as conditions on prior Caritas DoN approvals, including funding approved in connection with approval of Holy Family's 308 exemption request to expand MRI services, which was approved on May 23, 2008. The condition requires that outstanding Holy Family benefits associated with the 308 approval be funded by Cerberus until completed in accordance with the original DoN approvals.

III. COMMENTS BY INTERESTED PARTIES

A public hearing was requested by the Phillip Katz Interested Party and held on June 29, 2010 at the Tenney Middle School in Methuen. The hearing was held jointly with the Public Charities Division of the Office of the Attorney General. The hearing was the fifth of six hearings held on the transfer of ownership applications submitted on the six Caritas hospitals, and was attended by approximately 200 people, 79 of whom testified. Also, 14 letters of comment on the Caritas Holy Family/Cerberus transfer were received. In addition, 172 letters of support on the transfer (not specific to any Caritas hospital) were received after the date for submission of comments which was extended to July 30, 2010.

Those testifying or submitting written comments included senior management of Caritas and Cerberus, physicians, nurses and other employees of both Holy Family Hospital and Lawrence General Hospital, trustees of Holy Family Hospital, local citizens, elected public officials including mayors, city councilors from Methuen and Lawrence, and members of the General Court and representatives of organizations in the Holy Family service area.

Those organizations include the Merrimack Valley Chamber of Commerce, River Bank, Northern Essex Community College, Massachusetts Nurses Association, Neighborhood Legal Services (Lawrence), Teamsters Local 25, Lazarus House Lawrence, Lawrence Council on Aging, Methuen Senior Activity Center, Massachusetts State Building Trades Council, 1199 SEIU, Elder Services of the Merrimack Valley, and the Methuen Fire Department.

In addition, comments both at the hearing and in written form were also received from individuals and organizations whose comments were not specific to any one hospital but addressed the Caritas/Cerberus transaction. Comments on the Caritas/Cerberus transfer were received from Heath Care for All, Health Care without Harm, Health Law Advocates, Health Care Access Coalition, Massachusetts Nurses Association, Mass Home Care, Signature Healthcare, Southcoast Hospitals Group, Planned Parenthood, SEIU 1199 and several concerned citizens.

A representative from Caritas outlined the five-year Caritas search for a financial sponsor and outlined the system's need for a sponsor including the age of the facilities, lack of investment in new technologies, the underfunding of the pension plan, and the drain on operating funds from the debt service. He noted that Cerberus through Steward will continue to fund pastoral care and community benefits, maintain the Catholic identity and embrace the existing charity care policies. In addition, the Caritas Hospitals will maintain their local boards, and the hospitals for the first time will pay state and local taxes. The major issues of the testimony and other written comments, along with Staff's responses, are presented below.

General Comments

A slight majority of the comments (54%) presented at the Holy Family hearing or in subsequent written testimony, expressed strong support of the transfer to Cerberus. The remaining comments received expressed some concerns about the transfer (41%) or were in opposition (5%).

Those strongly supporting the project noted that the proposed acquisition by a for-profit entity would put Holy Family Hospital on a more solid financial footing and enable its continued state-of-the-art development for residents of all ages in the community. Others in support noted the

resolution of the Caritas pension obligation, as well as the agreement by Cerberus to continue the Catholic identity of the Hospital and its charity care policies, pastoral care, and community benefits.

Those who were concerned about the transfer noted that Cerberus has never been involved in the health care business before. A good number of those who commented were concerned about the future of nearby Lawrence General Hospital after the transfer, and in particular about the possibility of predatory pricing by Cerberus to exclude Lawrence General Hospital and other providers from contracts with health plans, as well as the hire and alignment of physicians currently affiliated with other providers to exclusively align with Cerberus. Given these concerns, many of those who commented recommended that the Attorney General impose conditions on the transfer to ensure the long-term sustainability of both Holy Family and Lawrence General Hospitals in order to preserve the community's health care access.

The majority of those opposed were concerned about the commitment to the long-term Catholic identity of the Caritas system once it becomes part of Cerberus. They believe that the potential loss of that Catholic identity would adversely impact the affirmative moral obligations and the moral prohibitions, which are at the core of Catholic medical ethics.

Impact on Other Providers/Access to Care in the Holy Family Service Area

As indicated above, many speakers were concerned about the future of neighboring Lawrence General Hospital after the transfer, and in particular about the pressure on Cerberus to repay initial investors and create a return on investment that would require Cerberus to concentrate on patients who can pay for their services versus the poor, the underinsured and the uninsured. They asserted that this could lead to possible predatory pricing by Cerberus to exclude Lawrence General Hospital and other local providers from contracts with health plans, as well as the hire and alignment of physicians currently affiliated with other providers to exclusively align with Cerberus. Given these concerns, many of those who commented recommended that the Attorney General impose conditions on the transfer to ensure the long-term sustainability of both Holy Family and Lawrence General Hospitals in order to preserve the community's health care access.

Staff Response

In response, Staff notes that concerns regarding competition between existing providers and the terms of their contracts with third party payers are beyond the purview of DoN review. However, Staff notes that the Attorney General has set certain conditions on the sale of the Caritas system to Cerberus. One of the conditions will involve setting up a monitoring process under the direction of the Attorney General ("AG") and the Department of Public Health ("Department") to examine the impact of the sale on the health of the affected community populations and on the utilization and financial operations of hospitals and other health care entities in the geographic regions where the hospitals are located. The AG and the Department will each hire monitors to examine these concerns, as well as other information they believe is relevant.

Commitment to the Community/Maintain Essential Services

A number of those commenting, including the Massachusetts Nurses Association ("MNA"), Health Care For All ("HCFA"), Health Law Advocates ("HLA"), the Methuen Arlington Neighborhood, and several private citizens called for a longer required retention of Holy Family

and the other Caritas hospitals by Cerberus as a condition of approval, many asking for longer than three years, one group asking for seven years, and two groups for 10 years. In addition, a number of those presenting testimony asked that the community be given at least six months' notice with the possibility of a public hearing on plans to close a facility or alter essential services such as mental health or the Sexual Assault Nurse Examiner ("SANE") program. The hiring of a single monitor was recommended by another group, which also suggested enforceable penalties to maintain existing services including behavioral health services for three years, and that necessary services currently in place must stay in place not only for three years but for as long as the Department deems them necessary.

Several groups, including the MNA, HCFA and HLA recommended that the AG and the Department maintain ongoing authority through conditions of approval for the transition period, so that existing community benefits levels be maintained until a community needs assessment of the Holy Family service area is completed, and to ensure that all promises made by Cerberus to the Holy Family community are kept. HCFA and HLA also recommended that Cerberus be required to appear before the Public Health Council ("Council") six months after the date of sale and annually thereafter to report on compliance with any conditions of approval.

Finally, Planned Parenthood of Massachusetts urged confirmation by the Attorney General and the Department that adequate protection is in place for the provision of sexual health information and services to Caritas patients

Staff Response

As indicated previously, Cerberus has agreed to maintain all current services at the six Caritas Hospitals, including Holy Family for a period of three years as part of the signed Asset Purchase Agreement between Caritas Christi Health Care and Steward Holy Family Hospital, Inc.

The AG imposed a condition that will put in place a mechanism that would limit the closure of behavioral health services or any of the Caritas hospitals after the first three years of the sale. Specifically, this condition will only allow a closure of services or hospitals if there have been two consecutive years of actual or anticipated negative operating balances and if eighteen months of notice has been given to the AG and the Department before such closure of services or hospitals occur.

In addition, Staff notes that Cerberus has agreed to maintain existing community benefits as part of the Asset Purchase Agreement ("APA"). This requires that Cerberus continue to maintain the Caritas Christi Community Benefits Policy ("Policy") currently in place for Holy Family and the other Caritas Hospitals for as long as it owns the Hospitals. This will continue except for changes over time that may be necessary or appropriate to ensure that the Policy remains properly aligned with the "needs and interests of Holy Family's patients, the broader community, and the operations of the Hospital." In addition, Cerberus will, for a period of not less than three years after the closing, provide community benefits and service programs at a level of activity similar to those provided by Holy Family in accordance with the current AG's Community Benefits Guidelines for Non Profit Hospitals, as reflected in Caritas' 2009 community benefits report. Finally, the Applicant, in keeping with the terms of the APA, shall require that any successor in interest to the Applicant abide to the terms described above regarding community benefits.

Staff notes that in addition to the AG's condition regarding behavioral health services at Caritas hospitals, the Department also has a review process in place to determine if a service is necessary for preserving access and health status in the hospital's service area. This process includes a public hearing to allow interested parties to present comments on the hospital's proposal.

In response to the HCFA and HLA recommendation regarding periodic reports to the Council on compliance with conditions, Staff notes that the monitoring process set up by the AG and the Department to examine the impact of the sale will provide a more comprehensive review than simply compliance with DoN conditions.

In response to the Planned Parenthood recommendation that the Attorney General and the Department require adequate protection in place for the provision of sexual health information and services to Caritas patients, Staff notes that the AG's Transaction Statement states that the sale to Cerberus does not, in and of itself, diminish women's access to reproductive health services. The AG further states that the Applicant will be obligated, to the same extent as Caritas is now obligated, to comply with the laws of the Commonwealth in all respects, including matters related to women's health.

Cerberus and the Environment

Health Care Without Harm ("HCWH") recommended that Cerberus improve the Caritas facilities' overall health performance through membership in Practice Greenhealth, adopt the Green Guide for Health Care, and participate in the Environmental Protection Agency's ("EPA") proposed Climate Showcase Communities Grant. HCWH offered to consult with and support Cerberus to comply with these recommendations.

Staff Response

Staff notes that Cerberus would be required to meet the hospital standards of the Green Guidelines adopted by the Department in any future construction projects it may contemplate that require DoN approval. Beyond that, specific Cerberus membership in environmental organizations such as Practice Greenhealth or the EPA's Climate Showcase program would be a consideration only by Cerberus. The DoN Program will forward the HCWH recommendations to Cerberus for its consideration.

Financial Analysis of Proposed Transfer/Cerberus Business Plan

Several of those commenting recommended that the financial viability of the proposed acquisition of Caritas be carefully assessed, including the value of the existing Caritas assets, and that detailed financial information on Cerberus's financial capacity to operate the Caritas hospitals be provided to the public. This information would include financial details on equity contributions and debt financing, specifically, repayment and collateral. In addition, those commenting recommended that Cerberus be required to make its business plan public, so that a public forum might be conducted on the plan's merits, and in particular how Cerberus will use the currently unspecified \$290 million it has agreed to commit to the Caritas system.

Staff Response

Staff notes that the AG, as stated in her Statement as to the Caritas Christi Transaction issued October 6, 2010, has determined that the financial capacity of the Applicant, in light of its debt-free operation of the Caritas health care system and its affiliation with Cerberus, to be a reasonably viable alternative, from a financial perspective, for the continued operation of the Caritas Hospitals. In addition, as previously indicated, the Department's Division of Health Care Quality through its Suitability Review Program found Cerberus to be financially responsible and suitable to acquire Holy Family Hospital in order to be granted a hospital license. Therefore, Staff believes that no further financial analysis, including a public forum on Cerberus' business plan, should be required to approve the Cerberus acquisition of Caritas.

Community Services Coordinator for the Elderly

Mass Home Care recommended that Cerberus be required to develop and fund a community Services Coordinator position responsible for coordinating hospital services for the elderly with groups that serve seniors, as well as develop and fund a Geriatric Support Services Plan that specifies goals based on community needs assessments and consultation with community groups.

Staff Response

In response, Staff notes that DoN transfer of ownership review has no requirement to expand or develop new services. However, as Cerberus assumes operations of the Caritas hospitals, it may find that the recommendations by Mass Home Care are relevant to services it provides for the elderly. The DoN Program will forward the Mass Home Care recommendations to Cerberus for its consideration.

Employee Issues

All who provided testimony on employee issues were in support of the Holy Family transfer. In fact, many Holy Family employees spoke at the hearing and noted that the investment in capital by Cerberus would improve the facility, increase job security, job growth and career advancement, and make it easier to attract quality candidates. A state representative noted that the proposal would permanently secure the pension and employment status of thousands of people. A union representative noted that in addition to the fully-funded pensions there will be opportunities for those in the community who have lost their jobs. Others noted that the merger agreements recognize the existing union contracts and provide for collective bargaining.

Staff Response

Although not within the scope of DoN review, based on the terms and conditions of the Asset Purchase Agreement between Caritas and Cerberus, Staff agrees that Holy Family employees will benefit from the proposed transaction.

Financial Impact of Transaction

Many speakers noted the need for capital and that the investment that Cerberus would make in the Holy Family facility would provide not just stability but also act as a development project by creating jobs in both the medical and construction industry. Many others, particularly municipal officials and other elected officials, noted that the contributions to the local tax base are crucial

at this time. The Merrimack Valley Chamber of Commerce and Northern Essex Community College stated that the Cerberus acquisition of Holy Family will have a positive impact on both jobs in the community, as well the college's ability to meet its mission of providing Holy Family with highly skilled entry level health care providers.

Staff Response

Although beyond the scope of DoN review, Staff agrees that there will be a positive financial impact in the Holy Family service area as a result of the Cerberus acquisition of the Caritas hospitals. The improved financial viability of Holy Family should have a positive impact on jobs in medicine and construction in the upper Merrimack Valley, expand opportunities for local entry level health care providers, and provide significant new tax revenues to the City of Methuen.

Catholic Identity

Several of those testifying spoke of the Catholic affiliation of the Hospital, the continuation of the Catholic identity or mission and one person noted that Cerberus management with the Caritas Catholic mission would lead to a new and prosperous era. All four persons who were opposed to the transfer objected because of concern that the Catholic conscience provisions would be lost and because the ownership and operation of hospitals is one of the church's core activities. One recommended that that sale not be permitted to proceed without stronger guarantees of a continuing Catholic identity in place. The other asserted that the Cerberus mission of profit maximization and its track record in corporate acquisitions is incompatible with the Hospital's mission.

Staff Response

In response, Staff notes that concerns regarding the continuation of the Catholic identity relate to the terms and conditions of a Stewardship Agreement executed between the Applicant and the Roman Catholic Archdiocese of Boston defining the details of the Catholic identity of the Hospitals following the transfer of ownership, which provides an option for the Applicant to buy out its commitment to preserving the Catholic identity of the Caritas system of hospitals as a whole, or of an individual hospital if it were to be sold. In this context, Staff views this as a business decision related to the internal operations of the Catholic Archdiocese of Boston, which is beyond the purview of DoN review.

After careful consideration of the above comments, Staff continues to recommend approval of the Steward Holy Family application.

IV. Interpreter Services

The Office of Health Equity ("OHE") recently conducted a review of the interpreter and outreach services available to limited and non-English proficient ("LEP") patients at the Hospital. Improvements recommended by OHE are presented in Attachment 4 of this Staff Summary. OHE's recommendations have been included as a condition of approval of this project.

V. STAFF RECOMMENDATION

Based upon the above analysis, Staff recommends approval with conditions of Project Number 3-3B89 for transfer of ownership and original licensure of Caritas Holy Family Hospital, Inc. resulting from a change in its corporate membership whereby Steward Holy Family Hospital, Inc. will assume control over Caritas Holy Family Hospital Inc. Failure of the Applicant to comply with the conditions of approval may result in Department sanctions, including possible fines and/or revocation of the DoN.

The conditions of approval are as follows:

1. Steward Holy Family Hospital must provide interpreter services as described in the document prepared by the Office of Health Equity, which is attached and is incorporated herein by reference. (Attachment 4).
2. Steward Holy Family Hospital shall continue to fund the commitments on Community Health Initiatives agreed to with regard to previously approved Determinations of Need granted to the Hospital and at the time of closing on the acquisition must have completed all current payments. .

The Applicant has agreed to these conditions of approval

List of Attachments

1. Local governing board committee members
2. Letter from Executive Office of Human Services regarding Medicaid access issues
3. Management Consulting Agreement by and between Caritas Holy Family Hospital, Inc. and Steward Holy Family Hospital, Inc.
4. Comments by the Office of Health Equity

Attachment 1
Local Governing Board

Steward Holy Family Hospital, Inc.

First Name	Last Name	City	State	Service Area
Ralph	de la Torre, MD	Newton	MA	-
Lester P.	Schindel	Framingham	MA	-
Urville	Beaumont	Salem	NH	PSA
Peter G.	Gori	Lawrence	MA	PSA
Richard Hart	Harrington	North Andover	MA	PSA
Thomas	Hoerner, MD	Andover	MA	PSA
John F. (Jack)	McKinnon	Andover	MA	PSA
Gerald T.	Mulligan	Andover	MA	PSA
Stephen H.	Ruszkowski	Andover	MA	PSA
Vartan	Yeghiazarians	Salem	NH	PSA
Anthony K.	Stankiewicz, Esquire	Andover	MA	PSA

PSA	9	82%
Others	2	18%
Total	11	

Medicaid Access Letter



DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
600 Washington Street
Boston, MA 02111



JUDYANN BIGBY, M.D.
Secretary

TERENCE G. DOUGHERTY
Medicaid Director

September 2, 2010

Ms. Joan Gorga
Program Director
Determination of Need Program
Massachusetts Department of Public Health
99 Chauncy Street, 2nd Floor
Boston, MA 02111

RE: Application from **Steward Healthcare System LLC** for a
Determination of Need for a Change of Ownership of Six Hospitals

Dear Ms. Gorga:

This is to confirm that consultation pursuant to 105 CMR 100.602(B) has taken place between the Executive Office of Health and Human Services (EOHHS) and the following Caritas Christi Health Care hospitals (Hospitals) for a Determination of Need regarding whether access problems of Medicaid recipients to medical services exist in their primary service areas:

Carney Hospital
Good Samaritan Medical Center
Holy Family Hospital
Norwood Hospital
Saint Anne's Hospital
Saint Elizabeth's Medical Center

EOHHS has considered all representations and information supplied by the Hospitals and other relevant parties in order to determine whether access problems exist. Information reviewed includes the following:

- Licensed bed capacity by site; location of Hospital Licensed Health Centers and Community Health Centers
 - MassHealth inpatient and outpatient volume for Fee for Service and PCC Plan members
-

- List of medical staff, including identification of primary care practitioners, and including physicians employed through Caritas Physician Network, all of whom are MassHealth providers.
- Capacity of PCC Plan sites located in the Hospitals' service areas
- Hospitals' contracting status with MassHealth MCOs as part of the MCOs' obligation to MassHealth to meet "Access and Availability" requirements
- Input from the Office of Behavioral Health, which reviewed its data and that of the Massachusetts Behavioral Health Partnership (MBHP.)


Based on our review of the above, EOHHS has determined that no access problems exist for Medicaid recipients in the primary services area. EOHHS anticipates that the Hospitals will continue to make access to Medicaid providers, primary care, and behavioral health care for Medicaid patients, a priority.

This review and determination is predicated on the current status of the Hospitals and does not preclude the need to address Medicaid contract and/or Medicaid reimbursement issues which may arise after the sale of the facilities.

In the event of any changes in ownership, the new owner must apply for new provider numbers by contacting Mary-Helen Hollingsworth of MassHealth Customer Service at 857-472-5744 or by email mary.hollingsworth@hp.com to request a new Provider Application.

The new owner must also complete an Acute Hospital Request for Applications (RFA) and Contract for each Hospital for the applicable Rate Year (RFA) with EOHHS. The RFA is available on the Commonwealth of Massachusetts Procurement Access and Solicitation System website (COMPASS), www.comm-pass.com or by contacting Kiki Feldmar at 617-348-5546 or by email at kiki.feldmar@state.ma.us.

Sincerely,



Terri Yannetti
Director, Primary Provider Network

M. Daria Niewenhous, Caritas Group
Ernie Fusaro, VP
Steve Sauter, EOHHS
Kiki Feldmar, EOHHS

MANAGEMENT CONSULTING AGREEMENT

**by and between
Holy Family Hospital, Inc.
and
Steward Holy Family Hospital, Inc.**

This Management Consulting Agreement (the "Agreement"), dated as of May 6, 2010 (the "Effective Date"), is entered into by and between Caritas Holy Family Hospital, Inc. ("Hospital"), an acute care hospital licensed by the Massachusetts Department of Public Health ("DPH"), with a main campus located at 70 East Street, Methuen, Massachusetts, and Steward Holy Family Hospital, Inc. ("Steward"). Hospital and Steward may sometimes be referred to herein individually as a "Party" and collectively as the "Parties." Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in that certain Asset Purchase Agreement by and among Caritas Christi, the Sellers identified therein and Steward Health Care System LLC dated as of March 19, 2010 (the "APA").

WHEREAS, pursuant to Section 4.17 of the APA, Hospital desires to retain Steward to consult with management with respect to the Hospital commencing as of the Commencement Date; and

WHEREAS, Steward desires to provide such services on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual representations, covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, Hospital and Steward, intending to be legally bound, do hereby represent, covenant and agree as follows:

ARTICLE 1**APPOINTMENT AND ENGAGEMENT OF STEWARD**

1.1 Engagement of Steward. Effective as of the Effective Date, Hospital hereby retains and engages Steward to perform the Services (as defined below), and Steward hereby accepts such engagement, in each case on the terms and conditions set forth in this Agreement.

1.2 Control Retained by Hospital. Hospital shall at all times retain and exercise control over its assets, and Steward shall perform its functions hereunder in accordance with written policies and directives adopted by Hospital and the Hospital's management. By entering into this Agreement, Hospital does not delegate to Steward any of the powers, duties, or responsibilities that are vested in the management of the Hospital or vested in the Hospital bylaws or the Hospital's governing documents. The Hospital may, according to the terms of this Agreement (i) adopt as the Hospital's policies the recommendations and proposals made by Steward, or (ii) adopt as the Hospital's policies the Hospital's own determinations notwithstanding the

recommendations of Steward. Notwithstanding any provision of this Agreement to the contrary, at no time shall Steward be authorized to undertake, nor shall Steward undertake, any independent actions on behalf of or in the name of the Hospital, it being understood, acknowledged and agreed that Steward's actions hereunder shall be limited to the making of recommendations to the management of the Hospital or to Hospital with respect to the operations or management of the Hospital.

1.3 Services to Be Provided by Steward. Commencing upon the Commencement Date (as defined in this Section 1.3 below) and continuing thereafter during the Term (as defined in Section 4.1 below) of this Agreement, Steward shall provide the management of Hospital, and the Hospital, with consulting services regarding the policies, procedures and decisions of the Hospital regarding the following (collectively, the "Services"):

(a) The selection, employment, supervision, training and compensation of employees, and related employee relations matters, it being acknowledged that all employees at the Hospital shall be and remain employees of the Hospital and carried on Hospital's payroll, and under no circumstances shall such employees be deemed employees or agents of Steward;

(b) Billing for services and materials furnished by the Hospital, the design and maintenance of accounting, billing, patient and collection records, and the preparation and filing of insurance, Medicare, Medicaid and any and all other necessary or desirable applications, reports and claims related to revenue production;

(c) Facility maintenance and repair programs;

(d) Quality assurance programs and standards and procedures for admitting and discharging patients;

(e) Agreements, contracts and orders for the furnishing of services, concessions and supplies for the operation and maintenance of the Hospital;

(f) Licenses, certifications, permits and accreditations in the name of Hospital, all as required by law for the operation of Hospital and all as necessary or required contracts with third-party payors and other similar governmental and non-governmental agencies and intermediaries;

(g) Emergency and evacuation procedures for the protection, warning and safe and timely evacuation of all patients, guests, invitees and staff from Hospital; and

(h) Operating budgets.

For purposes of this Agreement, the term "Commencement Date" shall mean the earlier to occur of the expiration or early termination of the notification and waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act").

1.4 Good Faith Effort by Steward. Steward shall act in good faith and use commercially reasonable efforts to perform its obligations hereunder, but shall have no liability to Hospital for: (i) the substance of any recommendation or the failure to make any recommendation; or (ii) any decisions made or omitted to be made with respect to any recommendation; or (iii) any actions taken or omitted to be taken by Hospital.

ARTICLE 2

MANAGEMENT FEE

As compensation for its Services hereunder, Hospital shall pay to Steward the aggregate sum of one hundred dollars (\$100.00) per calendar month, or any portion thereof, during the Term. Each monthly payment of \$100.00 shall be paid on the last business day immediately prior to the end of the month or partial month for which such payment is being made.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

Each Party makes the following representations and warranties, which are material representations and warranties with respect to the understanding of the Parties under this Agreement, which the other Party has relied upon as an inducement to enter into this Agreement, and which shall survive the termination thereof:

(a) This Agreement constitutes a valid and binding agreement of the Party, is enforceable against such Party in accordance with its terms; and neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby nor compliance with any of the provisions hereof will:

(i) conflict with, or result in, a breach of the Party's governing documents;

(ii) to the best of the Party's knowledge, violate any applicable statute, law, rule or regulation or any other writ, injunction or decree of any court of governmental authority;

(iii) violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation or acceleration under) the terms or conditions or provisions of any note, instrument, bond, lease, mortgage, obligation, contract, agreement, understanding, arrangement or restriction of any kind to which the Party, or any of its assets or properties may be bound; or

(iv) to the best of the Party's knowledge, require the consent or approval by any governmental authority beyond those already obtained.

(b) Each Party is duly organized, validly existing and in good standing under the laws of the state in which it is incorporated, is duly authorized to conduct business within the Commonwealth of Massachusetts, and has all requisite power and authority to own, and to carry out its businesses as now being conducted or as contemplated, and to perform its obligations hereunder.

ARTICLE 4

TERM AND TERMINATION

4.1 Term. Unless otherwise terminated pursuant to Section 4.2 hereinafter, the term of this Agreement (the "Term") shall commence on the Effective Date, and shall continue for one (1) year, and on a month to month basis thereafter, unless sooner terminated as set forth below.

4.2 Termination. Either Party may terminate this Agreement immediately upon the delivery of written notice to the other Party.

ARTICLE 5

MISCELLANEOUS COVENANTS

5.1 Relationship of Parties. Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership, joint venture or lease between Hospital and Steward with respect to Hospital.

5.2 Notices. All notices, demands and requests contemplated hereunder by either Party to the other shall be in writing and shall be delivered by hand, registered or certified mail, return receipt requested or sent by recognized guaranteed overnight delivery service to the other Party at such Party's address as hereinafter set forth: (i) in the case of Hospital to Caritas Norwood Hospital, Inc, 800 Washington Street, Norwood, Massachusetts 02062, Attn: President, with copies to Caritas Christi Health Care, 77 Warren Street, Boston, Massachusetts 02135 Attn: Ralph de la Torre, M.D., and Attn: Joseph C. Maher, Jr. Esq. and (ii) in the case of Steward to Steward Norwood Hospital, Inc., c/o Cerberus Capital Management, L.P., 299 Park Avenue, New York, NY 10171 Attn: W. Brett Ingersoll, with a copy to Cerberus Capital Management, LP, 299 Park Avenue, New York, NY 10171 Attn: Lisa Gray, Esq. and Christopher A. Holt, Esq., or in either event to such other address or to such other person as may be designated by at least five (5) days' prior written notice given from time to time during the Term hereof by one Party to the other. Rejection or refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of change of address of which no notice was given, shall be deemed to be receipt of the notice sent.

5.3 Entire Agreement; Amendments. This Agreement contains the entire agreement between the Parties with respect to the subject matter; and no prior oral or written, and no contemporaneous oral representations or agreements between the Parties with respect to the subject matter of this Agreement shall be of force or effect. Any

additions, amendments or modifications to this Agreement shall be of no force or effect unless in writing and signed by both Hospital and Steward. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, nothing set forth in this Agreement shall operate or be construed to operate as any sort of limitation, waiver, release or modification of the APA or any of the Parties' respective rights, claims, remedies or obligations thereunder, all of which are hereby expressly reserved and maintained.

5.4 Access to Books, Records and Documents.

(a) Until the expiration of four (4) years after the furnishing of Services pursuant to this Agreement, Steward shall make available, upon written request, to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and all books, documents and records of Steward that are necessary to verify the nature and extent of the costs of any Services furnished pursuant to this Agreement for which payment may be made under the Medicare Program.

(b) If Steward carries out any of the duties of this Agreement through a subcontract or subcontracts with an aggregate value or cost of \$10,000 or more over a twelve (12) month period with a related organization, such subcontract or subcontracts shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract or subcontracts, the related organization shall make available, upon written request, to the Comptroller General of the United States, or any of its duly authorized representatives, the subcontract or subcontracts, and all books, documents and records of such organization that are necessary to verify the nature and extent of the costs of any services furnished pursuant to such subcontract or subcontracts for which payment may be made under the Medicare Program.

5.5 Other Obligations of Hospital. Other than (i) the obligation of Hospital to pay Steward the management fee described in Article 2 or (ii) any breach by Hospital of this Agreement, Hospital shall have no obligations to Steward in connection with this Agreement.

5.6 Assignment. Neither Party shall assign this Agreement without the other Party's prior written approval. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their permitted successors and assigns.

5.7 Anti-fraud and Abuse. The Parties expressly agree that nothing contained in this Agreement shall require either Party, or their respective agents and employees, to refer any patients to, or order any goods or services from, the other Party. Notwithstanding any unanticipated effect of any provision of this Agreement, neither Party will knowingly or intentionally conduct itself in such a manner as to violate the prohibitions against fraud and abuse in connection with the Medicare and Medicaid Programs.

5.8 Binding Agreement. The terms, covenants, conditions, provisions and agreements herein contained shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

5.9 Captions and Headings. The captions and headings throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or scope or intent of this Agreement nor in any way affect this Agreement.

5.10 Waivers. No Party shall be deemed to have waived any rights provided to such party under this Agreement without a written statement by such Party indicating that such Party was aware of such rights and intended to waive such rights. No waiver of any right by a Party or failure to exercise any right of a Party with respect to any occurrences or events shall be deemed a waiver of such Party's right with respect to any other occurrence or event or with respect to a later happening of the same occurrence or event.

5.11 Severability. If any provision of this Agreement or the application hereof to any person or circumstance shall be determined by any court of competent jurisdiction to be invalid or unenforceable for any reason, then such determination shall not affect the remainder of this Agreement or the application of such provision to any other persons or circumstances.

5.12 Prevailing Party. In the event of litigation arising out of this Agreement, the prevailing Party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, arising out of such litigation.

5.13 Authority. Each person signing this Agreement on behalf of a Party hereto represents that such person has the authority to do so.

5.14 Governing Law. This Agreement shall be construed in accordance with and governed by the substantive laws of the Commonwealth of Massachusetts.

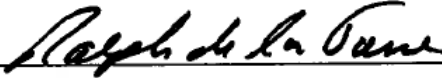
5.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. Copies of signature pages exchanged through facsimile or email shall have the same legally binding force and effect as though they were signed originals.

(Rest of Page Intentionally Left Blank
Signature Page to Follow)

Signature Page to Consulting Management Agreement
by and between
Caritas Holy Family Hospital, Inc.
and
Steward Holy Family Hospital, Inc.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in multiple originals by their duly authorized officers, all as of the date and year first written above.

Caritas Holy Family Hospital, Inc.

By: 
Name: Ralph de la Torre
Title: President / CEO

Steward Holy Family Hospital, Inc.

By: _____
Name: _____
Title: _____

**Signature Page to Consulting Management Agreement
by and between
Caritas Holy Family Hospital, Inc.
and
Steward Holy Family Hospital, Inc.**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in multiple originals by their duly authorized officers, all as of the date and year first written above.

Caritas Holy Family Hospital, Inc.

By: _____

Name: _____

Title: _____

Steward Holy Family Hospital, Inc.

By: W Brett Ingersoll

Name: W. Brett Ingersoll

Title: PRESIDENT

Attachment 4
Interpreter Condition

Holy Family Hospital shall have in place the following elements of a professional medical interpreter services:

1. Develop a detailed plan for periodic training of clinical (especially physicians), support and administrative staff on the appropriate use of interpreters.
2. Revised the policies and procedures to include specific language that clearly states:
 - the availability of interpreter services at no cost,
 - the use of only trained interpreters to provide medical interpretation and/or logistical support,
 - the prohibition of the use of minors as interpreters and
 - The discouragement of the use of family members or ad hoc interpreters
3. Notify the Office of Health Equity of any substantial changes to the Interpreter Services Program
4. A response addressing the above shall be submitted to the Office of Health Equity with a copy sent to the Director of Determination of need 45 days after the approval of the DoN.
5. Provide yearly a Language Needs Assessment (LNA). (Guiding principles developed by OHE are a recommended source.)
6. Submit an annual progress report to the Office of Health Equity 45 days after the close of federal fiscal year.
7. Follow recommended National Standards for Culturally and Linguistically Appropriate Services (“CLAS”) in Health Care (materials available online at <http://www.omhrc.gov/templates/browse.aspx?lvl=2&lvlID=15>)